

From: Richard Molpus
To: microsoft.atr(a)usdoj.gov
Date: 1/23/02 11:39pm
Subject: Microsoft Antitrust Settlement comment

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May it please the Court:

I write in the matter of Microsoft v. US, the most visible Antitrust and Anti-Monopoly case that has been before the Courts and the Public since the actions against American Telephone and Telegraph (AT&T). I feel that the case is closer in importance to the Standard Oil Antitrust Case, in the similarities of economic and business influence, and the resistance of the Defendant to admit any form of wrongdoing in their acquisition and maintenance of Monopoly. "The Federal Government is not bound by the Laws of the State of New Jersey" might be redrafted as "The Federal Government is not bound by a Shrink-Wrapped License".

I have been working with Hobby computing since 1975 - I like to say since before Bill Gates had his first Million. I've watched as Microsoft began as an innovative company that worked in the fledgling industry to stay alive, then stayed at the forefront of cooperative growth by working with other companies to aid the spread of Personal computers.

Microsoft, prior to the introduction of the IBM PC, cooperated with other companies in the nascent PC software and hardware industries to develop and apply standards in an evenhanded and equal fashion. Since no two hardware companies produced the exact same hardware, the task of creating a working system was difficult - and would have been impossible if the hardware and software companies had not been willing to "reveal all" to anyone who asked. System integrators; whether as commercial entities or as private hobbyists; refused to use products, whether Hardware or Software, that were "Black Boxes" - sold with only the most trivial interfacing information.

Things were primitive, to be sure, but the cooperation required, and provided between manufacturers and users, meant that the market leaders led due to the quality of their product, not the quality of their legal department.

Bill Gates, Paul Allen, and the other founders and employees of Microsoft did "Bet the Company" with the IBM PC. It was a completely new hardware and software combination - and since IBM provided very detailed plans for the hardware and software in the PC, no company had any initial advantage over any other except based on when the IBM specifications became available.

Microsoft, however, was not so forthcoming about the details of their contribution to the PC Platform; While they were willing to sell MS-DOS for (comparative) pennies, they refused to provide any internal details of the inner operations and structure of MS-DOS (this also applies to IBMs' PC-DOS, which was a simple relabeling and repackaging of the Microsoft code).

Microsoft used it's total control of the MS-DOS platform to conceal what MS-DOS could do - keeping surprises hidden to allow "amazing" improvements to establish or maintain market share. Borland upstaged Microsoft by creating "Sidekick", the very popular accessory program that used "undocumented" methods of using MS-DOS's internal capabilities to make Sidekick not a

"trespassor" program, but an active part of MS-DOS itself.

Borland, by the news stories of the day, had discovered how to link Sidekick into MS-DOS by private (very private) reverse engineering efforts to discover _how_ MS-DOS worked internally. Microsoft had not revealed all of the link points (API Calls) of MS-DOS, and Borland's efforts surprised everyone - and (from the journalism of the day) enraged Microsoft. Borland was a notable competitor to Microsoft, since it offered several of the major programming languages of the day (Turbo Pascal, Turbo Basic, Turbo Assembler). Microsoft had to grin and be quiet.

Other companies followed Borland's lead, sneaking looks into the guts of MS-DOS to provide all sorts of accessory tools and features, upstaging Microsoft's own offerings. Microsoft had learned an important lesson - Control of the API set meant control of the market.

Later anecdotal stories demonstrate the way that Microsoft took the lessons of Sidekick to heart - "Win3.1 isn't done till Lotus won't run" being the most lyrical of the anecdotes. Lotus 123 was the main competitor to Microsoft's own Spreadsheet, and the popular view was that Microsoft wanted to provide its own product with the competitive advantage of working better with Windows 3.1 than Lotus's product.

The old tradition of cooperative assistance between software and hardware vendors had ceased, especially since Microsoft provided both the Operating system (MS-DOS and Windows 3.x) and Commodity software (Microsoft Word, Excel, Money, Flight Simulator, Games, etc.). When MS Word for Windows 95 was introduced it had many special features that no other competitors had - float-on-top hints, special mouse options, and others. Lotus and Borland both groused in the media that Microsoft hadn't told them about any of the extra API's in Windows 95 that would allow such extras; Microsoft had used the secrecy that was natural to internal corporation communication to gain an advantage on its competitors.

Had Microsoft not been both a Operating Systems and Commodity Software company it would have never been able to hide such extra capabilities from the competition - if it was a OS company only, it would have sold the knowledge to any customer, if it was a commodity company only it would have had to create those additions by its own research into the private workings of the Operating System.

Like Standard Oil, which had control of both the Pipelines and the Refineries, Microsoft can use its control of OS functions and commodity software functions to block the advancements of its competitors and leverage the secrecy of its internal communications to spring surprises on the world.

Standard Oil could and did demand kickbacks from the Railroads based on the total oil shipments, and could manufacture shortages in a region by refusing to either send petroleum products to a

market, or refusing to refine types of petroleum, keeping the strategies secret until the market was at its mercy.

Microsoft can do the same - If it won't reveal what the OS can do, then no other company has a chance to bring extra capabilities to the market, and it can hide those extra functions in the OS to spring those extra features on the market at any time in it's own products.

Standard Oil created a Monopoly in the Petroleum industry; whipsawing the market between it's control of distribution and production, controlling a slice of the economic world as it wished, for it's profit, heedless of the damage to the consumers. Standard Oil decided who got what grade of oil, grade of grease, grade of Gasoline, grade of anything petroleum-based. It could charge what it wanted, and the public be damned!

Microsoft has similar powers; it allows the public - both the end users and the other software companies - to do only what it sees as proper, restricts the best and fanciest to its own products, can demand that it's customers do as it sees fit (cf. the Compaq reversal on offering Netscape as the default browser), and having no real competitors in the 80x86 PC OS market, can charge what it wants to "guide" the market.

I am not any sort of expert in the law nor learned in the ways of legal argument; but I can see that the actions of Microsoft have limited the growth of the computer marketplace - It has such a control of the features and functions of the OS that it can start or stop developments in the software industry by 'announcing' or 'denying' upcoming features of the Windows Operating system. It has used it's control the ownership of the OS to replace third party commodity software (WordPerfect, Lotus 123, Quattro Pro, Dbase, Netscape) with it's own products, shielding them from full force of competitive pressure and scrutiny by handcuffing it's products (Word, Excel, Internet Explorer, Access) to the sale of the Operating system.

Microsoft, like Standard Oil, is so large that it can withstand any normal corrective force from the marketplace, short of a relevatory act of the size and style that has destroyed Enron, Microsoft has no real competitors; it is a 800 pound gorilla.

However, Microsoft, like Standard Oil, is subject to the Law of the Land - and the Wagner and Sherman acts are written with a clear intent to make the Federal Government a 2000 Pound Gorilla - capable of rending any other beast into tiny pieces. The Legislatorss who wrote those acts lived in a business environment that was much more corrupt - openly and blatantly corrupt - than we live in now. They wrote with a broadness and a bluntness that was powered by their anger and disgust - intending to give the government a blunt-edged weapon that was never to be use with delicacy, but with a savage vigor to place eternal fear into the minds and hearts of businessmen or women who wished to create an Trust or Monopoly. I like many in the computer and Software

Industry, have been alarmed by the delicate action of the Courts and the Prosecution; Having been bled by Microsoft in the past we desire its blood to splash in the gutters, running red on the paving stones.

The USA benefited from the breakup of the Standard Oil Monopoly, Benefited from the breakup of the AT&T Monopoly (indeed, this message would not have been reaching this Court had the AT&T Monopoly not been broken), and will benefit from the dissolution of the Microsoft Monopoly. The secrets that Microsoft has hidden within Windows for it's sole profit will be available to all the software world, the competitors of Microsoft will be empowered, the market will be freed of a limiting boundary - one set by the desires of Microsoft.

Microsoft can be divided into four separate entities - Operating Systems, Commodity Software, Computer Hardware, and Internet Services. An additional entity - to contain the research and theoretical efforts that Microsoft funds; much as Bell Labs was maintained as an entity when AT&T was divided; would be appropriate.

Operating Systems would contain all the resources to maintain and expand the Windows operating system - but no Commodity, or Internet software. A benchmark for deciding what belongs in this company would be to examine what was included in the initial release of Windows 95 - no Internet Explorer, no Microsoft Word, no Microsoft Works, no Microsoft Media Player. If Microsoft sells a piece of software as a separate item, or offers some form of extra-cost add-on 'expansion' to 'improve' the capabilities of a 'integral part of the operating system' then recognise that item for what it is - not an integral function of the OS but as a tacked-on piece of Commodity Software.

Commodity Software would cover all the "Office Software", 'Back Office', "Middleware", 'Multimedia Support', "Entertainment" or "Pig in the Pokesack" software that Microsoft produces or sells. Whether it be the Encarta Library, Microsoft Streets mapping software, or Microsoft Word itself, Commodity Software gets the lot.

Computer Hardware would be responsible for such things as the Microsoft Mouse, Keyboard, Multimedia hardware - anything not software with the Microsoft name. The Microsoft Press, which published guide books and texts about Microsoft products would also belong in this entity.

Internet Services would get MSNBC, the Microsoft Network, Internet Explorer, Hotmail, anything that will not work without the use of a TCP/IP stack. Microsofts new .NET efforts would belong to this entity.

I ask that this Court order the separation of Microsoft into several separate components - each a fully separate company, free to succeed or fail based on the quality of it's product, not guaranteed life because of a monopoly or corruption of the marketplace.

I thank the court for its time and attention.

Richard Molpus
rgmolpus@sff.net